

**TESTIMONY SUBMITTED BY:**

Diana O'Donoghue, Executive Director  
Connecticut Chapter  
New England Convenience Store Association

**Appropriations Committee  
March 27, 2009**

**RE: Testimony Relative to H. B. No. 6363; Provision Relative to  
Lottery Commission Cut**

Chairman Harp and Chairman Geragosian and members of the Appropriations Committee, thank you for the opportunity to testify before you today on behalf of the Connecticut Chapter of the New England Convenience Store Association (NECSA). The Connecticut Chapter represents over 400 convenience stores across the state. NECSA's membership consists of independent, family owned convenience stores, independently owned franchise stores as well as chain-operated stores.

Our members ask you to oppose the proposal to reduce the lottery retailers' commission to 4%. If passed, it would be the lowest commission rate in the nation. Passage of this proposal would be detrimental to your local corner store's business and to the state's lottery revenues.

When the Connecticut Lottery began approximately 37 years ago, the state's convenience stores quickly became the primary sales agents for the program. Over the years the Connecticut Lottery Corporation (CLC) and Connecticut retailers have built an effective private-public business partnership. Today, according to the CLC, convenience store retailers are responsible for about 50 percent of all sales of lottery tickets and games.

Our members estimate that as a group they will lose approximately \$1,250,000 over the next year if the commission is cut to 4%.

And the world is a different place since 1972 when lottery ticket sales began. Back then, our members' stores sold only one game at 50-cents per ticket. Currently, members sell on average about 36 games.

The cost to the retailer to make these sales are so much higher today then they were 37 years ago. In 1972, NECSA members estimate that our labor cost to sell lottery tickets was a few hundred dollars. Today, NECSA's Connecticut retailers incur significant labor costs for these sales. Labor costs include additional staff at peak selling times and administrative and reporting tasks including the Lottery's requirements on retailers which are included for you in the addendum to this testimony.

Additionally, our members' employees and independent storeowners have to verify deliveries, activate and settle instant ticket books, maintain sufficient supplies, teach new customers how to play, maintain a record of winning numbers for customers, ensure the security of open books, reconcile sales on a per shift and per day basis, and make additional deposits when jackpots are high. What are even more costly are the controls they have to implement to track sales as they attempt to prevent thefts.

The specific costs of all of these responsibilities will be highlighted in our retail members' testimonies who are here today. According to NECSA's Connecticut Chapter retailers when you deduct just the labor costs from the gross commission, the margin is minimal and even the theft of one \$1.00 instant ticket removes any profit and requires double digit instant ticket sales to make up for that loss. Plus, retailers are providing FREE valuable

space for lottery advertising in their stores and the counter space required for the Lottery monitors can be used for more profitable items.

Our retailers appreciate that by selling Lottery tickets, they draw customers to their stores who buy other products such as milk, a newspaper, a snack or a coffee. These related sales are important to our members as well and they have helped to contribute to the state's revenue stream.

However, if this proposal passes and there is a reduction in the current commission rate, convenience stores have to reconsider the lottery inventory and may reduce it. This is not just a statement, but words I have heard from our retail members who have expressed this to the CLC recently as well. Retailers will look to makeup sales losses with other more profitable products and advertisers. They will also likely be forced to reduce staff hours and possibly layoff employees.

These are difficult economic times and managing a c-store business in Connecticut is already challenging. Each year, our members are faced with tax increases on their top ten product sales categories including, but not limited to, cigarettes, beverages, snacks, milk, candy and gasoline. And this year a 50-cent tax increase on cigarettes has been proposed and expanding the bottle deposit law which will raise the price on water beverages has already passed. Also, there are bills to increase the price of milk and limit the sale price of fuel. To a convenience store in Connecticut these proposals that often pass are death by a thousand cuts. And this proposal to cut the commission on lottery tickets to the lowest in the nation is really unfathomable to our membership.

Connecticut convenience stores are the state's valuable business partners who promote and primarily advertise the Connecticut Lottery's products and this lottery commission cut, if passed, is likely to cause significant damage to our members' and to future lottery sales.

NECSA's convenience store members respectfully urge you to oppose this damaging proposal to reduce Lottery agent commissions. Thank you for your consideration of our concerns.

## Retailer Contract

**THIS RETAILER CONTRACT** is between the CONNECTICUT LOTTERY CORPORATION (CLC), a public corporation created pursuant to Public Act 96-212 of the Connecticut General Statutes (Act), and the undersigned Retailer. Subject to Lottery Agent Licensing approval by the Division of Special Revenue (DOSR), the Retailer and CLC hereby agree as follows:

1. **Retailer Rules.** Retailer agrees to comply with and be bound by the Act, the Rules and Instructions of CLC, and all other applicable laws, rules, regulations, and ordinances. Retailer agrees at all times to maintain a combined ten week sales average in excess of \$2,000.00 per week, and to notify CLC of any changes in its business, as specified in the Act and the Rules and Instructions. On or before the commencement of the sale of lottery Tickets by Retailer, CLC will deliver to Retailer a copy of the Lottery's "Rules of Operation"; however, copies of the Act, all Rules and the Division of Special Revenue Regulations are always available upon request from CLC.
2. **Term and Renewal.** Unless earlier terminated, the term of this Retailer Contract shall begin as of the date it is executed by the CLC Chief Executive Officer (CEO) and Retailer as shown below, shall remain in effect for a period of one (1) year, and may be renewable annually at the sole discretion of CLC. In the event that CLC and Retailer have entered into any Retailer Contract(s) dated prior to the date of this Retailer Contract, CLC and Retailer agree that from the beginning of the term hereof, this Retailer Contract shall amend, renew, replace, and restate any prior Retailer Contract in its entirety for each Retailer business location listed herein.
3. **Contract Termination.** This Retailer Contract may be canceled by Retailer upon twenty (20) calendar days prior written notice to the CLC. If the CEO determines, in her/his sole discretion, that cancellation, denial, revocation, suspension or termination of this Retailer Contract is in the best interest of CLC, the State of Connecticut or the public welfare, the CEO may cancel, deny, revoke, suspend or terminate this Retailer Contract upon written notice to Retailer; provided, however, Retailer shall be entitled to an appeal of such cancellation, denial, revocation, suspension, or termination in accordance with the CLC Rules and Instructions; provided, further, that the CEO may temporarily suspend Retailer's rights under this Retailer Contract without prior notice, pending any prosecution, hearing or investigation, in accordance with the Rules and Instructions. In addition to the foregoing, CLC may immediately cancel, deny, revoke, suspend, terminate, or refuse to renew this Retailer Contract for any of the reasons set forth in Exhibit A on the next page hereof.
4. **Authorization to Sell Lottery Tickets.** Retailer location(s) listed below, for which DOSR has issued a Lottery Agent License(s), is authorized to sell all CLC Lottery Tickets, provided they are in good standing under this Retailer Contract. Retailer agrees that it shall sell no other lottery Tickets in the State of Connecticut, except those provided to it for sale by CLC. Retailer agrees that it shall adopt safeguards to assure that it will not sell lottery Tickets or pay prizes to persons under the age of 18 years. Retailer agrees that it shall sell lottery Tickets only at the prices, and only subject to the terms and conditions, fixed by CLC unless prior written authorization is received from the President of the CLC in each instance. The CLC will pay Retailers commissions and other compensations in accordance with the amounts specified in the Act and the Rules and Instructions of the CLC, as full and complete compensation under this Retailer Contract.
5. **Electronic Funds Transfer.** Retailer shall have a fiduciary duty to preserve and account for all proceeds from the sale of lottery Tickets collected by it and shall be responsible and liable for all such proceeds. All proceeds from the sale of lottery Tickets and all other funds due the CLC shall constitute a trust fund in favor of the CLC until paid to the CLC. Subject to the Act and the CLC Rules and Instructions, Retailer agrees: (i) to maintain for the purpose of this Retailer Contract a separate bank account in the name of the CLC for the credit of the CLC; with a bank acceptable to CLC which is a qualified public depository, and member of an automated clearing house association; (ii) to deposit daily into that bank account all proceeds from the sale of lottery Tickets and other funds due the CLC; (iii) to authorize the CLC to initiate Electronic Funds Transfer (EFT) to and from that account for the net settlement due from the sales of CLC lottery Tickets; and (iv) that sufficient funds shall be available in the designated account on the dates specified by CLC to cover the amounts due CLC, as determined by CLC.
6. **Prize Payments.** During its normal business hours, Retailer agrees to immediately validate and pay all lottery Tickets winning prizes up to and including \$599 for all lottery games that are authorized by CLC, in accordance with the Act and the CLC Rules and Instructions. Such payment for winning tickets shall not be in amounts greater or less than the amounts authorized by CLC through its on-line gaming system, and shall never be subject to restrictions or conditions other than those imposed by CLC.
7. **Promoting Sales.** Retailer agrees to prominently display, in locations accessible to the public, point-of-sale advertising and other public information material and supplies provided from time to time by CLC, its Vendors and suppliers. Retailer agrees to attend all training sessions, as requested from time to time by CLC. In order to assist Retailer with sales of lottery Tickets; CLC, its Vendors and suppliers may provide certain equipment (such as Lottery Terminals, ticket dispensers, ticket selling machines, play stations, etc.) to be held in the custody and control of Retailer without any transfer of ownership of such equipment to Retailer. Retailer agrees to return any such equipment and supplies upon request of the CLC and agrees to be financially liable and responsible for the use, preservation and protection of such equipment and supplies, normal wear and tear excepted.
8. **Acceptance and Return of Instant Tickets.** Subject to the conditions and reporting requirements more fully set forth in the CLC Rules and instructions: (i) Retailer shall be responsible for all Instant Tickets accepted from CLC (or its distributor); (ii) any Instant Tickets not properly accounted for by Retailer shall be deemed to have been purchased by Retailer; (iii) Retailer shall be responsible for the full price of Instant Tickets, less any applicable Commissions, for all Instant Tickets which may be lost, stolen, or damaged after delivery to Retailer; (iv) CLC will accept full and partial ticket Pack returns only with the termination, cancellation, suspension, revocation or non-renewal of this Retailer Contract; and (v) for non-activated Instant Tickets, the CLC may reduce Retailer's cost for lost or stolen non-activated Pack to \$-0- per Pack, provided that Retailer has complied with the reporting requirements and none of the Tickets from the non-activated Pack have been validated; (vi) non-activated full packs can be returned by the retailer at the announced end of game; (vii) partial packs shall not be accepted back by the CLC from active retailers.
9. **Contract Changes.** This Retailer Contract, including the Act and the CLC Rules and Instructions, is the entire contract between CLC and Retailer. This Retailer contract may not be modified or amended except by a writing signed by both parties hereto or by amendment to the Act or the CLC Rules and Instructions. To the extent of any conflict, the provisions of the Act shall govern the Rules and Instructions, and the Rules and Instructions shall govern the Retailer Contract.

IN WITNESS WHEREOF, CLC and the undersigned Retailer have executed, or caused their duly authorized representatives to execute, this Retailer Contract as of the date noted below.

Business Name: \_\_\_\_\_ Store No. \_\_\_\_\_

Business Address: \_\_\_\_\_

Retailer Type of Ownership (Check One): ☐ Sole Proprietor ☐ Partnership ☐ Corporation ☐ Limited Liability Company  
☐ Other: (specify) \_\_\_\_\_

Corporate Name: (if applicable) \_\_\_\_\_

Print Name and Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Connecticut Lottery Corporation by: \_\_\_\_\_  
Anne M. Noble, President & CEO

**EXHIBIT A**  
to  
**Retailer Contract**

**Notice of Specific Reasons for which a Retailer Contract may be Terminated**

**CLC may immediately cancel, deny, revoke, suspend, terminate, or refuse to renew any Retailer Contract if a Retailer or any of its owners:**

- a. violates a provision of the Act or of the Rules and Instructions; or
- b. is or has been, or retains an employee involved in the sale of lottery Tickets who is or has been, convicted of a criminal offense related to the security or integrity of CLC or a lottery in any other jurisdiction; or
- c. is or has been, or retains an employee involved in the sale of lottery Tickets who is, or has been, convicted of a gambling-related offense, false statements, false swearing or perjury in this or any other jurisdiction of a crime punishable by more than one year of imprisonment or a fine of more than \$1,000.00 or both unless the person's civil rights have been restored and at least five (5) years have elapsed from the date of the completion of the sentence without a subsequent conviction of a crime described above; or
- d. commits fraud, misrepresentation or deceit; or
- e. provides false or misleading information to CLC; or
- f. acts in a manner prejudicial to the security or integrity, or the public confidence in the security or integrity, of CLC; or
- g. conducts business for the sole purpose of selling lottery Tickets; or
- h. is delinquent in the payment of any federal, state or local taxes owed by it; or
- i. changes any Retailer Business Location for which the DOSR has issued an Lottery Agent License; or
- j. fails to accurately or timely account for proceeds or prizes from the sale of lottery Tickets; or
- k. fails to accurately or timely account for lottery Tickets received from CLC; or
- l. fails to comply with any term of this Retailer Contract; or
- m. fails to maintain a minimum level of sales, as established by CLC from time to time; or
- n. substantially changes the ownership of Retailer without prior written notice to, or consent of, CLC; or
- o. files for or is placed in bankruptcy, receivership, insolvency or similar proceedings or fails to pay its debts as they become due; or
- p. resides in the same household as any director, officer or employee of CLC; or
- q. contracts with any other person or entity for lottery goods or services without the prior written approval of CLC; or
- r. fails to meet any of the objective criteria established by CLC pursuant to the Act; or
- s. is subjected to any material change, as determined to be material in the sole discretion of CLC, in any matter considered by CLC in entering this Retailer Contract; or
- t. fails to maintain the designated account from which Electronic Funds Transfer (EFT) payments are to be made, fails to authorize CLC to initiate EFT transactions to and from such designated account, or fails to have sufficient funds available in such designated account on the dates specified by CLC, or
- u. fails to remain a licensed lottery Agent in good standing with the DOSR, or
- v. fails to adequately market its lottery products as determined by the CLC, or
- w. fails to fully comply with all requirements of the Americans with disabilities Act.